

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 1157 of 2001

Between:

S.K.Sardar S/o S.K.Andul Khader,
Nalgonda District.

..... PETITIONER

AND

The Vice-Chairman & Managing Director, Andhra Pradesh State Agro Industries,
Development Corp Ltd,
Hyderabad.

.....RESPONDENT

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 1157 OF 2001

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ORDER:

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The petitioner, who is working as Bulldozer operator in the respondent-Corporation has filed this Writ Petition, questioning the order dated 25-6-1999 in proceedings No. Pers/EPF/819/97.

It is stated that the petitioner has joined the service of the respondent-Corporation in

the year 1979 as Bulldozer Operator. He worked in several stations. When he was working as Bolldozer Operator Grade-I in Nalgonda, he was issued with show-cause notice dated 17-12-1998, on the allegation that his performance in operating the Bulldozer is not satisfactory. To the said show cause notice, the petitioner has filed explanation. In the explanation, he has disputed the allegations levelled against him and also pleaded that there was continuous trouble with the machine itself. But, however, without conducting further enquiry, the respondent-Corporation has passed the impugned order dated 25-6-1999, imposing punishment of stoppage of two annual grade increments with cumulative effect.

It is submitted by Sri Dilip Rao, the learned Counsel appearing for the petitioner, that as per the disciplinary (Punishment and appeal) rules of the respondent-Corporation, stoppage of increments with cumulative effect is major punishment, and the same could not have been imposed without conducting regular departmental enquiry, as per the procedure contemplated in the disciplinary rules. In support of his argument, reliance is placed on the judgment of the Supreme Court in the case of *Kulwant Singh Gill Vs. State of Punjab*.

On the other hand, it is submitted by Smt. P.Bala rani, the learned Counsel appearing for the respondent-Corporation that, for imposition of punishment of stoppage of increments, the respondent has followed the procedure contemplated in the Standing Orders; in that view of the matter, no regular enquiry need be conducted.

It is now fairly well settled that stoppage of two annual increments, with cumulative effect, of an employee is a major punishment. The disciplinary rules governing the employees of the respondent-Corporation also defined the nature of penalties. Even as per the classification of the penalties in the disciplinary rules of the respondent-Corporation, withholding of annual increments can be inflicted only in the cases of misconduct(major). So far this case is concerned, the petitioner was given show cause notice only on the allegation that his performance in operating the Bulldozer is not satisfactory. But, however, the petitioner has submitted his explanation and denied the allegations. It is also not in dispute, that consequent to the filing of

explanation, no further enquiry was conducted, and straightaway, this impugned order is passed. As much as, even as per the disciplinary rules, punishment of stoppage of annual increments with cumulative effect can be imposed only in the cases of misconduct, which is classified as major punishment, the respondent cannot pass the impugned order, imposing punishment on the employee, without conducting regular departmental enquiry. On this short ground, the impugned order is liable to be set aside. Further, in the judgment relied on by the learned counsel for the petitioner, (1) supra, the Supreme Court has considered the nature and effect of stoppage of increments with cumulative effect, and held, such punishment is a major penalty under the rules of Punjab Civil Services (Punishment and Appeal) Rules, 1970. Even in this case also, considering the nature of penalty imposed on the petitioner, as per the Rules of the respondent Corporation, it is a major penalty. In that view of the matter, no order can be passed imposing penalty of stoppage of two annual increments unless it is preceded by regular enquiry. For the foregoing reasons, the impugned order dated 25-6-1999 passed in proceedings No. Pers/EPF/819/97 is quashed.

The Writ Petition is allowed. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATED: 11-11-2005

Note: CC within one week.

(BO)

Msnr.